

**MEMO ENDORSED**



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

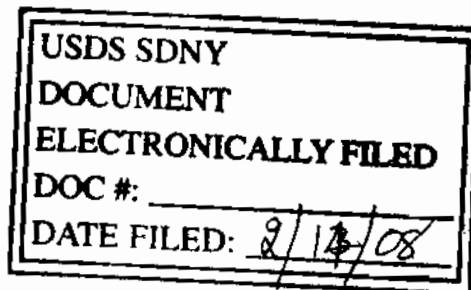
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February 6, 2008

**BY HAND DELIVERY**

Honorable Lewis A. Kaplan  
United States District Judge  
500 Pearl Street, Room 1310  
New York, New York 10007



Re: Fuller v. Warden Shaw, T.S.O./G.R.V.C./E.R.U. and John Doe 1-2, 07-CV-05817  
(LAK) (RLE)<sup>1</sup>

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action, I write to respectfully request that defendant New York City Department of Correction Warden Shaw's time to answer or otherwise respond to the amended complaint in this action be enlarged forty-five (45) days from January 29, 2008 to and including March 14, 2008. *Pro se* plaintiff, Andre Fuller, is currently incarcerated and therefore, I am unable to reach him in order to obtain his consent. However, I have no reason to believe that he would object to this request for an initial enlargement of time.

As an initial matter, I apologize to the Court and plaintiff for this late request. However, by letter dated January 16, 2008, this Office informed the Court that the U.S. Marshall's service had improperly attempted to serve Warden Shaw at this Office.<sup>2</sup> A check of the docket sheet indicates that on the following day, January 17, 2008, the U.S. Marshalls filed a receipt reflecting that service of the summons and complaint had been properly effected on defendant Shaw on January 9, 2008 and accordingly, the defendant Shaw's answer was due on

<sup>1</sup> This case has been assigned to Assistant Corporation Counsel Katherine E. Smith, who is presently awaiting admission to the bar and is handling this matter under supervision. Ms. Smith may be reached directly at (212) 513-0462.

<sup>2</sup> A copy of this Office's January 16, 2008 letter is annexed hereto for the Court's convenience.

*Time extended to and including*  
*2/29/08*  
*[Signature]*  
LEWIS A. KAPLAN, U.S.D.J.

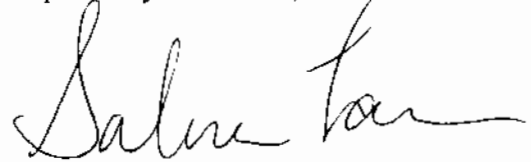
January 29, 2008.<sup>3</sup> However, this Office only received notice that defendant Shaw was properly served until checking the docket sheet today.

As background, the amended complaint alleges, *inter alia*, that between December 11 and 13, 2006, several unidentified New York City Department of Correction officers failed to protect plaintiff from other inmates, employed excessive force against him and subsequently were deliberately indifferent to his medical needs in violation of his federal civil rights. An enlargement of time is necessary so that this Office can obtain the underlying documentation regarding the alleged incident from the facility. It appears from the allegations in the amended complaint that defendant Shaw was not personally involved in the alleged incident. As a result, without facility's records, this Office cannot properly assess this case or respond to the complaint on defendant Shaw's behalf. Accordingly, this enlargement will allow this office time to obtain the underlying documentation, properly investigate the allegations of the complaint and fulfill its obligations under Rule 11 of the Federal Rules of Civil Procedure.

No previous request for an enlargement of time has been made. Accordingly, defendant this Office respectfully requests that defendant Warden Shaw's time to answer or otherwise respond to the complaint be enlarged forty-five (45) days from January 29, 2008 to and including March 14, 2008.

I thank Your Honor for considering the within request.

Respectfully submitted,



Sabrina Tann (ST 2552)  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: Andre Fuller (#07-A-3236)  
Pro Se Plaintiff  
Fishkill Correctional Facility  
Box 1245  
Beacon, New York 12508  
(By First Class Mail)

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<sup>3</sup> Today, this Office contacted Rosita Lopez of the New York Department of Corrections Legal Bureau and confirmed that Warden Shaw was properly served at 60 Hudson Street, New York, New York 10013.